IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WA.No. 1650 of 2007

AGAINST THE JUDGEMENT IN WPC.19016/2007 Dated 25/06/2007
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APPELLANT: 5TH RESPONDENT:

K.T. KURUVILA,
S/O. K.K.THOMAS,
AGED 63 YEARS,
RESIDING AT KADICHEENI HOUSE,
KAVANAD ROAD, P.O. MALA.

BY ADV. SRI.K.RAMAKUMAR

RESPONDENTS: PETITIONER & RESPONDENTS 1-4:
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1. K.L. BABY,
   AGED 48 YEARS,
   S/O. LOUIS (LATE), KAREKADAN HOUSE, IRINJALAKUDA,
   THRISSUR DISTRICT.

2. THE DISTRICT COLLECTOR,
   THRISSUR.

3. THE DPEUTY COLLECTOR,
   THRISSUR.

4. THE TAHSILDAR,
   MUKUNDAPURAM, THRISSUR DISTRICT.

5. STATE OF KERALA,
   REPRESENTED BY THE SECRETARY,
   REVENUE DEPARTMENT,
   GOVT. SECRETARIAT,
   THIRUVANANTHAPURAM.

R1 BY ADV. SRI.C.C.THOMAS
R2 TO R5 ADDITIONAL ADVOCATE GENERAL
SRI.VENGANNORE CHANDRASEKHARAN NAIR
GOVERNMENT PLEADER SRI.M.P.SREEKRISHNAN

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 11/12/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.M.JOSEPH, J.

W.A.No. 1650 of 2007-E

Dated, this the 11th day of December, 2007

JUDGMENT

K.M.Joseph, J.

The appellant is the 5th respondent in the writ petition. The property of the appellant came to be sold in revenue sale for realisation of abkari arrears. The writ petitioner was the purchaser of the properties. The prayer in the writ petition was to declare that the petitioner is entitled for confirmation of sale. The learned Single Judge has directed the official respondents 1 to 4 to complete the proceedings in the sale which is the subject matter of the writ petition. Aggrieved by the same, the 5th respondent filed the appeal. In the course of the appeal, the Commissioner of Land Revenue has proceeded to set aside the sale in favour of the writ petitioner by proceedings dated 5-12-2007.

(2). In the light of the proceedings of the Commissioner of Land Revenue dated 5-12-2007, which is placed before us by the learned Additional Advocate General, we do not think that any further orders are necessary in this appeal. It is not in dispute that, pursuant to the confirmation of sale, the auction purchaser namely, the writ petitioner has been put in possession by the Collector. In so far as the sale has been set aside, we deem it necessary in the interest of justice that the appellant be put back in possession as the appellant was deprived of the possession pursuant to the confirmation of sale which now stands set aside. In such circumstances, there will be a direction to the second respondent to resume the possession from the writ petitioner and put the appellant in possession of the property. This process shall be completed within

a period of three weeks from the date of receipt of a copy of this judgment. The learned counsel appearing for the writ petitioner Sri. C.C.Thomas would submit that in view of the fact that the sale has been set aside and also it has been stated in the order that, should the auction purchasers demand the return of the amount deposited by them the District Collector shall refund the same, the amount deposited may be refunded within a time limit to be fixed by this Court. We therefore direct the second respondent to pay the entire amount deposited by the writ petitioner towards the sale value within a period of two weeks from the date of receipt of a copy of this judgment. We also reserve liberty to the auction purchaser to challenge the order of the Commissioner of Land Revenue dated 5-12-2007 in the matter of interest.

(3). In view of the order passed in the writ appeal I.A.No.938 of 2007 is allowed.

Ordered accordingly.

(H.L.DATTU)
CHIEF JUSTICE

(K.M.JOSEPH)
JUDGE

MS